AIR POUCH | CONFIDENTIAL | DO NOT TYPE IN THIS SPACE

PRIORITY | (Security Classification) | 611.944/11-2051 (C.F.)

FOREIGN SERVICE DESPATCH

FROM : US POLAD, TOKYO | 781 DESP. NO.

TO : THE DEPARTMENT OF STATE, WASHINGTON. | November 20, 1951 DATE

REF : Dept's A-296, November 5, 1951

26 For Dept. Use Only	ACTION	DEPT.
	E*	
	REC'D NOV 27	INFO DCR FE OLI L
		OTHER COMM TAR

SUBJECT: Publicity Regarding Projected FCN Treaty

Pursuant to the Department's request in the airgram under reference, there are transmitted herewith a translation of the article concerning negotiations for a United States-Japan Treaty of Commerce and Navigation which appeared in the October 21, 1951 issue of the Tokyo Shimbun, and a single copy of an article giving the text of the proposed treaty which appeared in the October 29, 1951 issue of the English-language edition of the Mainichi. A summarized version of the latter article appeared in the Japanese-language edition of the Mainichi on the same date.

For the Political Adviser:

Charles N. Spinks

Charles N. Spinks
First Secretary of Mission

Enclosures:

(1) Copy of translation from Tokyo Shimbun, Oct. 21, 1951.

(2) Single copy of article from Mainichi Oct. 29, 1951.

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY Attaway DATE 3/19/82
RDS ☐ or XGDS ☐ EXT. DATE
TS AUTH. REASON(S)
ENDORSE EXISTING MARKINGS ☐
DECLASSIFIED ☑ RELEASABLE ☑
RELEASE DENIED ☐
PA or FOI EXEMPTIONS

CNSpinks/mfw
REPORTER

CONFIDENTIAL

INFORMATION COPY
Retain in divisional files or destroy in accordance with security regulations.

C Y

TOKYO SHIMBUN (Summary of Article) Eve October 21, 1951

Unofficial Negotiations On U.S.-Japan Treaty of Commerce And Navigation Begin. In Principle, No Restrictions Set on Foreign Exchange. Catches of Fish Are Excluded From Most-Favored-Nation Treatment.

(By our correspondent Sakai, Wash., 20th) - In an attempt to conclude a friendly treaty of commerce and navigation as promptly as possible after the peace treaty comes into force, thereby rendering economic and cultural ties between the two countries close, and also, in an attempt to set a precedent in the conclusion of this type of treaty before other nations set to the task, it appears likely that the United States Government, which has thus far been given in a serious study on the subject, is currently conducting preliminary negotiations on an equal footing with the Japanese Government unofficially, although primarily the negotiations are to be conducted with Japan after the Peace Treaty comes in force. The new treaty of commerce and navigation, as compared with the former one denounced in 1940, is likely to cover a wider range of articles, including matters concerning trade, settlements of accounts, payments, etc., satisfying the demands in modern times. Thus, the treaty seemingly is designed to give a definite guide to the problems to which presently American enterprisers and financial circles are paying keen attention, covering the article concerning the refundment of principal and accrued interest for the funds American entrepreneurs invested in Japan. It is observed that the following are the highlights of the draft treaty of commerce and navigation that have been revealed up to the present:

Exceptional Regulations in Customs Union.

Art. 1. The Governments of both countries shall constantly accord fair treatment to the subjects, their properties and enterprises, and to the interests of individuals and companies, of respective partner country.

Art. 5. In case legal issues occur, whether they are defendants or plaintiffs, all shall hold lawful rights under the principle of the native subject treatment and of the most-favored-nation treatment.

Art. 6. Offices, houses, warehouses, factories, and other real estates shall be protected fully under the principle of the native subject treatment and of the most-favored-nation treatment.

Art. 7. All those who are engaged in the following activities - namely, commerce, manufacturing industry, processing work, construction of buildings, publication, science, religion, philanthropic work, free trade (medical practioners, pressmen, lawyers), - shall be given the native subject treatment and the most-favored-nation treatment.

Art.12. This Article covers the following problems, viz., a) Relation between the exchange control and the repayment of principal and accrued interest of investments in Japan; b) Relation between

the repayment of principal and accrued interest of investments in Japan and the International Monetary Fund in which Japan will be admitted; c) Compensation to be made when one's immoval assets are forcibly expropriated; d) Payment of salaries, interest, profits gained in enterprises, commission, royalty, technical services, etc. It seems that due consideration is being paid to the above-mentioned subjects, so that American entrepreneurs and investors are enabled to have full understanding on their investments.

To explain in short about the contents of Article 12, the restrictions on exchange mean all kinds of restrictions, regulations, charges, taxes, etc. in the case of payments, remittance of money, transfer of funds, accommodation of money, securities, etc.; but under this Article 12, it is regulated that all restrictions shall not be imposed unless it is deemed necessary to do in order to check an extreme dwindling of foreign currency holdings or in order to increase the volume of foreign currency holdings which have decreased to a considerable degree. In case restrictions are imposed on the foreign exchange, exceptional regulations shall be laid down in order to secure necessary foreign exchange assuring the acquisition of goods and services essential to the welfare and health of the people. Regulations concerning restrictions on the foreign exchange will not be applied in the following cases in which it is deemed necessary to keep the health and welfare of the people, - namely, compensation to be made for real assets which were forcibly expropriated for public purposes; payment of salary, interest, dividends, commission, royalty, technical services; money necessary to refund debts; transfer of funds, etc.

In case more than one exchange rate is used, the rate of exchange which the International Monetary Fund has recognized for the above-mentioned special approval is given by the International Monetary Fund on the matter of the exchange rate, a lawful and reasonable rate of exchange, including taxes or charges, will be used. In case restrictions are imposed on the foreign exchange, no disadvantageous and discriminatory treatment will be given to investments, claims, transportation, foreign trade, etc.

Art.14. This Article deals with the matter concerning the most-favored-nation treatment for import and export business.

Under this Article 14, it is ruled that this Article shall not be applied in case the customs union in which one party country takes part or the free trade areas are utilized, and also, even in case in which it is attempted to utilize this article advantageously under a provisional treaty which is aimed at setting up a customs union or a free trade area. In such a case, it will be applied after one participant country has communicated such a plan to other country, enabling the latter to have an ample time to express its views.

For reference, this Article seems to cover the regulation that it shall not be applied to catches of fish (including products of fish). In this connection, it is conceivable that the U.S. Government has refrained from according the most-favored-nation treatment to this kind of goods, in view of the fact that

fishermen's associations along the Pacific Coast of the U.S. have been launching movements towards the Congress for fear of free competition with Japanese fishermen dealing in the business of refrigerated and canned tuna....

Article Concerning Immigration Is Omitted

It appears that no article concerning immigration is provided for under the present draft treaty, and it is feared that the problem may be taken up in the Senate when ratification of this treaty of commerce and navigation is made, whereas it is a very delicate issue. To put it more precisely, the law of immigration and that of naturalization are both American domestic laws, and at present, no right of denaturalization is recognized to Japanese. While the Chinese, Indians, and other peoples are enjoying the right of denaturalization, only the Japanese and Koreans are being treated discriminately in this respect. As is widely known, foreigners having no right of denaturalization are not authorized to enter under the immigration quota.

Therefore, the Japanese firms in the U.S., collecting fairly large amounts of money, have continued to make an appeal to American Congress every year in this regard. Yet the bill has not yet been approved although it has appeared to pass every year. Inasmuch as it is difficult to settle the problem after the draft treaty of commerce and navigation has been prepared, the Japanese government should express its desires that the present indiscriminate treatment, which runs counter to the principles of the U.S., be revised as early as possible. Although the problem is evidently far from being settled only by the will of the U.S. Government, nevertheless it may be settled much earlier as a great majority of Congress-men have full understanding on the issue, provided that the assertion of the Japanese Government, the Japanese national sentiment and public opinion appearing in the Diet and newspapers are reported continuously to the American Congress in a clear-cut shape.